



RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

Agency: Department of Ecology AO # 13-10

Emergency Rule Only

Effective date of rule:

Emergency Rules

- ☒ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- ☐ Yes ☒ No If Yes, explain:

Purpose: This rule making will update the definition of plan holder to include all persons listed in RCW 88.46.060 and update the definition of "umbrella plan" to ensure the term is used only when referring to non-profit corporations. It will also ensure that owner/operators, if operating under a plan that covers multiple parties, are not required to comply with provisions of the rule that apply specifically to "plan holders."

Citation of existing rules affected by this order:

Repealed:

Amended: Chapter 173-182 WAC

Suspended:

Statutory authority for adoption: RCW 88.46.060; RCW 90.46.050

Other authority :

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- ☐ That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: The exclusion of for-profit entities in the regulatory definition of plan holder and the broad definition of umbrella plan (should be limited to non-profits) should all be addressed to clarify the rule's requirements for the different multiple vessel plans. Without clarification, there is uncertainty about what regulatory requirements apply to what multiple vessel plans, leaving Ecology's approval of the plans vulnerable to legal challenge. If the plans are challenged, it could interfere with covered vessels' ability to rely on the plan (if the plan approval is invalidated). A vessel operating without the important services and regulatory safeguards that a plan provides creates a threat to public health, safety and general welfare because it creates uncertainty as to who and what resources will be used to respond if there is a spill. Ecology will file the Preproposal Statement of Inquiry immediately to begin the permanent rule-making process.

Date adopted: 12/13/2013

NAME (TYPE OR PRINT)

Maia D. Bellon

SIGNATURE

Maia D. Bellon

TITLE

Director

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 13, 2013

TIME: 10:13 AM

WSR 14-01-065

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>12</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____